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ABSTRACT

Declining enrollment and financial setbacks faced by California community colleges have necessitated discontinuing programs and terminating the services of experienced, tenured, certified personnel. Laws and policies in California, Connecticut, and at Miami-Dade (Florida) related to reduction in force (RIF) are discussed in terms of termination and rehiring of faculty, and of the traditional RIF alternative policies, which rely on dismissal of part-time staff. Retraining faculty for lateral transfer is presented as an alternative to layoffs among tenured college faculty members, whereby a classified or certified employee transfers from the department of original employment to another for which another credential is required. The faculty retraining experiences of the State University System of Florida, the State University of New York, the State University College of Pennsylvania, and the University of Wisconsin System are described and related to an outline for staff development and lateral transfer policies for certified positions at Palomar College, California. A review of California's enabling legislation and of professional growth policies precedes a summary of the views of Charles Neff, in favor of faculty retraining, of the opposing views of John J. Wagner, and of the disparate feelings in evidence in the Los Angeles Community College District. A bibliography is appended. (MB)

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FACULTY RETRAINING FOR LATERAL TRANSFER: AN ALTERNATIVE TO REDUCTION IN FORCE IN COMMUNITY COLLEGES

A Study and Progress Report

Rita A. White

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Dr. B. Lamar Johnson
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PREFACE

Several factors have conspired to delay completion of this paper, among them being the vicissitudes of investigating a new idea. What has been learned in this study has opened up at least as many questions as it has answered. What is presented here, therefore, can only be called a progress report.

The encouragement and assistance provided by many persons throughout this study has been greatly appreciated and has been utilized fully in the preparation of the report. Special thanks go to the following:

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Dr. Charles B. Neff, Provost for Academic Programs

From Pepperdine University

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I. INTRODUCTION

The phenomenal growth experienced by community colleges following World War II has obviously slowed. Indeed, many colleges among this formerly "fastest growing segment of American education"[1] have been experiencing enrollment declines and serious financial setbacks. The reasons are many and have been the subject of numerous studies and projections. One very serious consequence to California community colleges has been, and continues to be, the necessity of discontinuing programs and terminating the services of experienced, tenured certificated personnel.

This paper presents a proposal for an alternative to layoffs among tenured members of college faculties. The proposal is applicable to the problem facing all of higher education, but it has been outlined here specifically as it applies to the problem facing California community colleges.

In four university systems, the alternative is known as "faculty retraining." At Palomar College, a moderate-sized community college serving northern San Diego County, it has been proposed as "staff development for lateral transfer." In both cases, it is defined as a procedure whereby faculty whose teaching careers are placed in jeopardy by reason of declining enrollment, shifting student interests and/or budget constraints can be given "a new lease on life."[2] More precisely, it is a procedure whereby qualified individuals receive financial assistance from the district for the purpose of pursuing an educational program leading to certification in a second major subject, related to or remote from their present teaching major, a subject which is growing or expected to grow in response to new community needs.

In August, 1978, the Emergency Finance Committee, a committee of Palomar College faculty charged by the college's administration and governing board to develop recommendations for dealing with immediate and

long-range problems of staffing, program development, scheduling and institutional organization anticipated to result from passage of Proposition 13, submitted five recommendations. High on the list was the following statement:[3]

> We recommend that the Administration develop a policy to encourage lateral transfer (either permanent or experimental) and to provide support for necessary staff development. Furthermore, we recommend that the Administration be charged with systematic evaluation of staff whenever positions are to be filled to identify potential candidates for lateral transfer. Personnel must be subject to interview and screening by the affected department or area, so that the best person available for lateral transfer will be selected.[3]

It may be questioned why, in this day of collective bargaining and the prevalent attitude of antagonism displayed between faculties and administrations on college campuses, such a brazen proposal should have been received favorably. Even more amazing, perhaps, is the fact that the faculty had been charged with a task normally reserved for administration--recommendation on policy matters.

The answer may lie in the fact that Palomar College does not embrace collective bargaining, that its faculty has made only token gestures in that direction to date and that the "Shared Authority"[4] form of governance, traditionally fostered by the governing board, is, in fact, alive and working.

Where the term, "lateral transfer," as used in the context of this proposal, actually originated has not been fully explained by those on the committee who helped develop the recommendation. Most certainly, it is descriptive of the procedure. Designed to enable the institution to better meet its obligation to students, as well as to remove the threat to the careers of many talented, young and vital teachers on the staff, the proposed procedure would make it possible for faculty to cross heretofore sacred boundaries--barriers, really--between departments and divisions, thus untapping a variety of interests and abilities to be more fully utilized.

The task of developing a policy proposal embodying faculty retraining for lateral transfer was assigned by Dr. Omar Scheidt,

Superintendent/President of Palomar College, to the writer of this paper, a 13-year member and chairperson of the Art Department of the college, who had been granted a Sabbatical Leave for the year 1978-79 and was enrolled in the Community College Administration doctoral program at Pepperdine University. The current draft of the policy is presented herein (see Chapter IV), as well as the sum and substance of the four faculty training programs alluded to above, some moral, legal and practical aspects of the proposal as viewed by educators and a member of the legal profession and a number of problems seen to exist in the implementation of such a program in a community college in California at this time in history.

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II. CRISES IN CALIFORNIA COMMUNITY COLLEGES

Flexibility has been a characteristic of the community college throughout its history, flexibility to meet the changing needs of education and of the community, flexibility to adapt to the needs of the non-traditional student, and now, flexibility to provide needed programs and services on drastically reduced budgets.

> The strength of the Community Colleges has been their ability to respond individually and collectively to State and local needs for new programs and services relatively quickly and often without the infusion of new, special funds. [1]

So stated the staff of the California Postsecondary Education Commission in its February 1976 report, "Through The Open Door." It need hardly be stated that most Californias had yet to hear of Howard Jarvis or that few educators were taking seriously the signs of an impending taxpayer's revolt.

Financial crisis

Educators had been given early warning of a financial crisis. The Los Angeles Times, on January 31, 1971, reporting on the findings of a state commission's study of the costs of public education, quoted the study's director, James S. Dwight, as accusing educators, themselves, for escalating costs of salaries and fringe benefits and for "slip-shod money husbandry," seen to be the major cases for the public's growing disenchantment with the California education system.[2] And, John Lombardi had warned at least as early as 1973 that education must "achieve greater productivity to offset increasing (labor-intensive) costs,"[3] and must begin to think like a profit-making corporation.[4]

In 1976, S.V. Martorana and Lawrence A. Nespoli, reporting conclusions drawn from a survey conducted cooperatively by the National

Council of State Directors of Community and Junior Colleges and the Center for the Study of Higher Education, stated that "[by] far the most critical area of community college operations . . . is fiscal support and management." The authors noted that even California and Florida, traditional pacemakers in the support of their colleges, were experiencing financial problems.[5] Their review of legislation in seven major areas in 46 states and Puerto Rico showed 95 out of a total of 403 legislative acts affecting community colleges were passed that year in the area of college finance--23.6%.[6] Following mention of another problem facing post-secondary education, the now not-so-new matter of "no-growth," the report concluded with the statement, "[m]ost public post-secondary institutions can expect little immediate relief from their financial difficulties in the months ahead."[7]

Enrollment stablization

Reports of stablizing and decreasing enrollments were being heard frequently in the 1970's. In reviewing the now historic Miami-Dade case, in which a sudden and totally unforseen drop of 10.8% in actual enrollment, a 15.75% drop from the predicted enrollment, was experienced in Fall 1972, John L. Zaharis observed that "[t]he situation . . . is not unique to this college, and in fact, is becoming a common occurrence in higher education in the United States."[8] Predictions in 1975 by the National Center for Educational Statistics, however, seemed to indicate that, for most of higher education, the real crisis was yet a few years ahead (Figure 1),[9] and so, too, did the predictions that year of the Population Research Unit of the California Department of Finance (Figure 2).[10] Perhaps it was time to plan ahead, but in 1976 it did not appear necessary to panic. A slowdown, yes, but nothing serious seemed impending until the early 1980's.

The opening Fall enrollments of virtually all institutions of higher education for three years, 1975 to 1977, were provided by the National Center for Educational Statistics in a report by Jack Magarrell, published early in 1978, on an increase in the number of women attending colleges and universities. While Magarrell made no comment on the phenomenon, the data indicated an actual decrease in total enrollment of 1.5% in Fall 1976 followed by an increase of only 3.3% in Fall 1977.

For the nation's 2-year colleges, the figures were a 2.1% decrease and a 5.2% increase, respectively.[11] Surely this must have been something to be concerned about!

It is to be noted that all statistics quoted above, and those used in making the predictions, are for numbers of students enrolled. If F.T.E.'s had been cited, the picture would have been even gloomier. Lombardi confirms this observation and the beginning of the decline of full-time-student enrollment in his comparison of headcount to F.T.E. from Fall 1969 to Fall 1973.[12] Obviously, the rapid, steady growth of the community colleges can be said to be over, at least for the time being, along with the public's confidence in and willingness to support education.

B. Lamar Johnson, respectfully known to educators internationally as "Mr. Community College," sounded a note of warning and chastized the fiscal policies of those states, including California, which are effectively "putting a cap on community college enrollment--and actually . . . closing the open door."[13] In his Diamond Jubilee address before the Council of North Central Community Junior Colleges, Johnson noted that community colleges seem to be penalized for doing what they have been designed and assigned to do. He urged the colleges to "recognize the reality of costs and of the financial crisis which faces all education," and called for innovation and creativity in solving the problems facing the community junior colleges of the nation.[14]

Proposition 13

Clearly, Proposition 13 is not the only reason the California community colleges are in trouble today. Granted, it is one of the monumental immediate reasons, but it might never have happened if early warnings had been heeded by our numerous public agencies--education included.

Reactions to Proposition 13 have been mixed and varied. Many who voted for it still don't realize its ultimate effect. Obviously, warnings of its consequences issued during the campaign fell on many deaf ears. Representative of the official organs of the teaching profession, the headlines of the March 1978 issue of The California Professor blared, "Faculty Must Oppose Prop. 13, Support Prop. 8 To Prevent Massive College Layoffs."

Fig. 1 Total Enrollment:
Two-year Colleges
United States
1972-1985

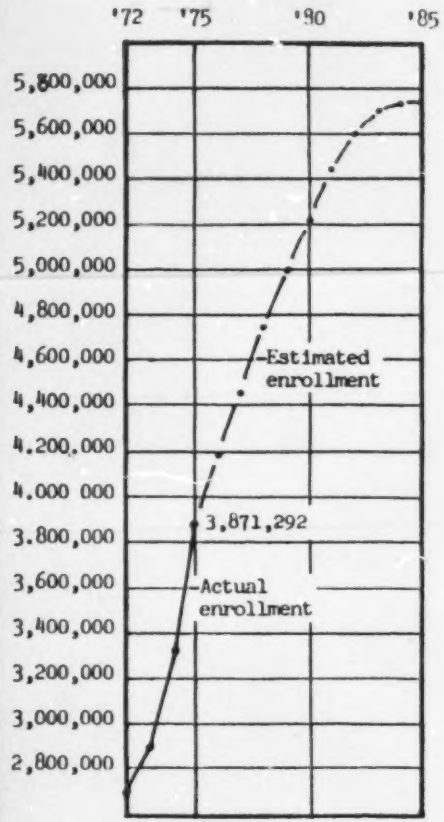
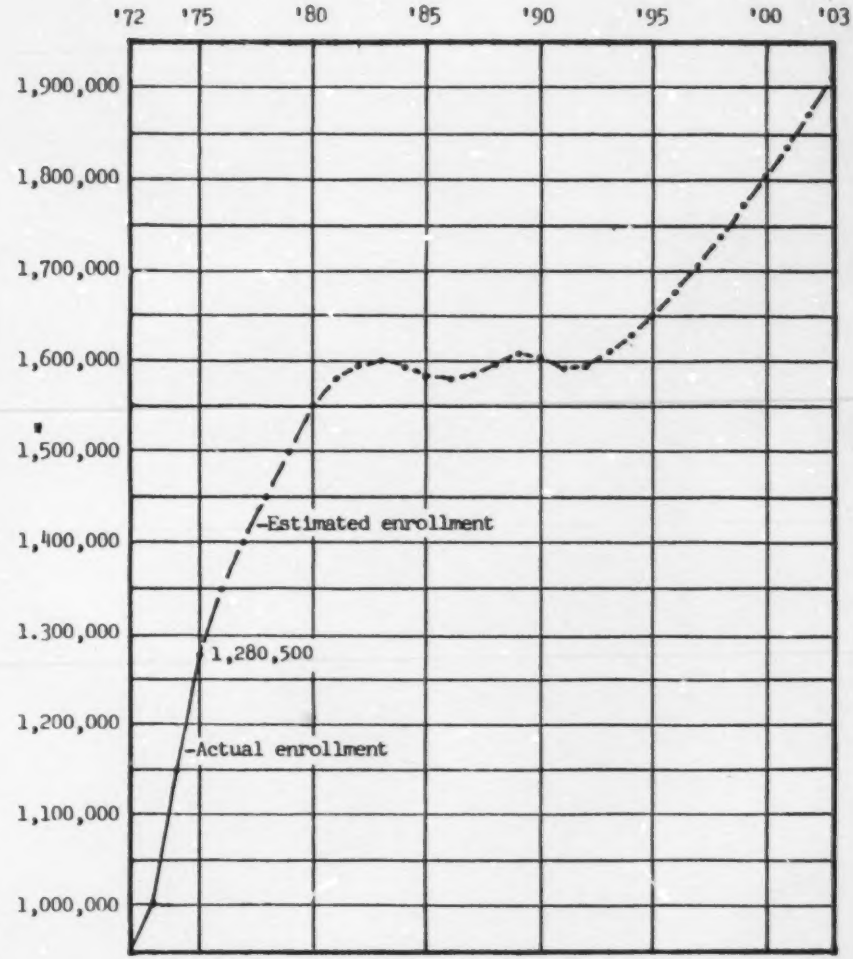


Fig. 2 Total Enrollment: California Community Colleges
1972-2003



Members were assured that "CTA Moves To Protect Faculty," and were warned against the "untenable and unworkable" consequences of any arbitrary laying off of faculty, cutting of curriculum and/or increasing of class size.[15]

After passage of Proposition 13, Los Angeles Community College District's John T. McCuen and Ginger Hoffland, in an article appropriately titled, "Jarvis Fallout," cited the pre-election preparations for the fall of the ax by this nation's largest community college district: staff reductions, program and services cuts, cuts in planned new library acquisitions and cuts in instructional and operating equipment and supplies. Even with Governor Brown's "bail-out" monies, the cuts required to balance budgets for this and future years are seen by the authors to have serious and long-range effects on the ability of community colleges throughout the state to meet their obligation to the Master Plan, to students, to faculty and to the community.[16] With understandable sarcasm, McCuen and Hoffland cast a parting volly at the perpetrator of the Proposition 13 fiasco:[17]

> As Howard Jarvis puts his image into the hands of the William Morris Theatrical Agency and jets to Japan to speak on the balance-of-trade problem, the Los Angeles Community College District--along with 58 counties, 414 cities, 1,226 school districts, and 4,700 special districts--is left in the jet stream.

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13. Johnson, B. Lamar. "The Community College: Prospects in Its Diamond Jubilee Year," Community College Frontiers, Springfield, Ill.: Sangamon State University, Vol. 5, No. 1, Fall 1976, p. 36.

14. Ibid., pp. 36, 37.

15. The California Professor, Burlingame, CA: California Teachers Association, Vol. XII, No. 6 pp. 1, 7-8.

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17. Ibid., p. 49.

III. REDUCTION IN FORCE

Layoff, termination or reduction in force, by whatever name it is known, it is a situation which will be faced with increasing frequency in our public-supported institutions of higher education in the immediate future. How it is implemented and what alternatives are available are matters of vital importance to faculty, administrators, and governing boards alike.

The law in California

Three sections of California Education Code apply to reduction in force in community colleges in the immediate situation. Section 87743 reads in part as follows:[1]

> Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of said district it shall have become necessary by reason of either of such conditions to decrease the number of regular employees in said district, the governing board may terminate the services of not more than a corresponding percentage of the certificated employees of said district, regular as well as contract, at the close of the school year; provided, that the services of no regular employee may be terminated under the provision of this section while any contract employee, or any other employee with less seniority, is retained to render a service which said regular employee is certified and competent to render.

The section continues with an outline of the procedures to be followed and closes with the following admonition:

> The board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

The rights of certificated employees terminated under Section 87743 are delineated in Section 87744, Rights of Terminated Permanent Employee, and Section 87745, Rights of Terminated Probationary Employee. Among those rights are preferred right to reappointment in order of original employment (seniority) within 39 months for the permanent employee or 24 months for the contract employee of date of termination. Offer of "prior opportunity for temporary service during the absence of any other employee . . ." and treatment of the period of termination as a leave of absence (except for calculation of service toward retirement) are additional rights under these sections.[2]

Two policies outside of California

Lombardi noted in 1974 that few reduction in force (RIF) policies, state or institutional, were then as clearly defined as is California's. He noted, also, that while some states defined the conditions for dismissal of staff under RIF, all placed responsibility for developing guidelines with the governing boards and administrations of the colleges. Faculty participation is essential, he stated, to insure acceptance of the conditions of such policies, to meet the requirements of due process and to minimize chances of litigation. Policies which grant the president final authority in the various steps of the process are likely to end up in court.[3]

In the district-designed guidelines for RIF developed under forced conditions at Miami-Dade College, the college-wide committee included two members from the Faculty Senate of each campus. Department chairpersons and division directors were involved in identifying those who would be dismissed and those to be retained. An administrative Executive Committee, however, made the final decision on the dismissals. At the time of the Zaharis report, no litigations had resulted from the actions of that case.[4]

California Education Code clearly spells out the order of termination and order of reappointment as the order of original employment. Second and third considerations are certification and competency. The Miami-Dade policy placed order of dismissal as "annual contract personnel" before "continuing contract personnel" and stated that "time of service would be immaterial" to a review of each case.[5]

Other considerations spelled out in the Miami-Dade policy were

educational qualifications, a written evaluation, performance efficiency based on that evaluation, compatibility, character as described in existing written statements and anonymous peer evaluations, and the capacity to meet the needs of the community as determined by enrollment patterns, "changes in program," evidence of community service and professional advancement.[6]

Section 2-70, "Termination for Special Reasons," of the Personnel Policies adopted by the Connecticut State Board of Trustees for Regional Community Colleges prior to September 1975 deals specifically with termination for "reasons of financial exigency or discontinuance of or reduction in service programs or departments." The policy provides no guidelines whatsoever for the order of dismissal. Even the decision whether to terminate employees under this section appears to be a decision of the president subject to "administrative review."[7] A second administrative review is provided the terminated staff member upon a "good faith allegation that the decision was based on an improper reason;" i. e., was "arbitrary or capricious" or "infringes upon specific constitutional or statutory rights of the individual, or upon academic freedom . . ."[8]

While Miami-Dade committed itself to the dismissed faculty for a "first priority review of . . . applications for reemployment for any faculty vacancies in the near future,"[9] the Connecticut policy stipulates only that "bonefide efforts" will be made to place the affected individuals in other suitable positions within the system. It states further that this does not "create a claim or right to any position opening . . ." but gives assurance that the released person's position will not be filled within a period of two years following termination unless an offer of reappointment has been made and turned down within 30 days of the offer.[10]

While this has been a review of laws and policies governing RIF in only two systems outside of California, it has served to point out discrepancies in such laws and policies and to point up the extent to which California law protects teachers in the community colleges of the state. Unlike the examples above, with their subjective or non-existent criteria for dismissal, California Education Code Sections 87743, 87744 and 87745 can in no way be used as "the scapegoat that covers the real reason for dismissal,"[11] a very deep concern among many educators.

Traditional alternatives to RIF

Reduction in force is obviously to be applied as a last resort. Every reasonable effective alternative will be considered first, both short-term and long-term in nature. Terminating hourly assignments, terminating non-tenured staff, reassignments, discontinuance of sections vacated by absent faculty, discontinuance of programs when outside funding ceases and cutting the operating budget to bare bones come before RIF. None are necessarily educationally sound. All serve to lower staff morale and all have negative long-range effects. But they are alternatives.

There are two points of view to be considered regarding part-time staff and their assignments. Lombardi sees them as a "cushion" against massive layoffs. Hourly personnel simply need not be rehired when enrollments decline and their classes simply may be dropped if minimum enrollment is not reached by a specified date. Extra hourly assignments of full-time contract faculty are, of course, dispensable.[12]

Leslie Koltai, looking at both the advantages and disadvantages of part-time personnel, notes on the plus side that part-time faculty are an extremely valuable adjunct to the instructional staff, often offering the student a practicing professional point of view and bringing to the classroom up-to-the-hour experience in their field. They may be knowledgeable persons in the community who are readily available to respond immediately to new, unanticipated community needs. At least until they and the teachers' unions price their services out of the market, they cost less. So long as districts adhere to the Peralto decision ruling that part-timers carrying less than 60% of a full load are not eligible for tenure, they present small threat to the budget and may well provide some of the flexibility needed for colleges to continue to function effectively during the next few years of financial constraints.[13] It appears that wholesale elimination of hourly faculty may not be the better part of wisdom.

An innovative alternative to RIF

One alternative to reduction in force not suggested in the literature reported above is the retraining of select faculty for new certification in areas which surveys show to be increasing in demand or for which a staffing

need is anticipated. This is, of course, the topic of this study. Literature related to this idea will be reviewed in Chapter IV.

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5. Ibid., pp. 15-16, 19.

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8. Ibid., p. 21.

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10. Connecticut State Board, op. cit., p. 20.

11. Lombardi, John, loc. cit., pp. 3-4.

12. Ibid., p. 4.

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IV. FACULTY RETRAINING: AN INNOVATIVE ALTERNATIVE TO REDUCTION IN FORCE

As noted in Chapter II above, flexibility is a key word in the description of the community college. They are constantly challenged to meet the changing needs of students. Paradoxically, however, California community colleges are, themselves, by law locked into a system wherein most of the instructional staff is limited in their flexibility by the subject area credential they hold. In times of expanding enrollments, this poses no problem. True, some instructors are credentialed to teach more than one subject area. If their present position is about to be phased out, however, just what are the chances that they have the qualifications for an area with a growing demand?

The need for faculty retraining

In his Diamond Jubilee address, Lamar Johnson quoted a concern voiced in the March 7, 1978 Los Angeles Times by the president of a new organization, The Association for the Full Employment of Doctorates. "Universities," she stated, "[should] not train people for fields that are obsolete. And, those . . . in fields that are obsolete need to be retrained."[1] Johnson echoed that concern and emphasized the increasingly important role of the community college in this retraining process. "During our current period of excessive unemployment," he noted, "we are observing the paradoxical situation of thousands upon thousands of jobs being unfilled because of a lack of qualified applicants. Community colleges must and increasingly are making a frontal attack on this problem."[2]

Johnson speaks of community college retraining programs for students. This paper speaks of retraining programs for community college instructors.

Marion Gilbert, in a 1971 study of community college teacher-training programs in several universities across the nation, alluded to a need for flexibility in these programs. She observed that community colleges then were

beginning to look for teachers who had had preparation in one or two related fields in addition to their major field.[3] "The student [entering the teaching profession] should be encouraged to broaden his teaching range," she states, "rather than to specialize further." These are wise words, indeed, but clearly they do not provide the entire answer to the problems now faced by faculty threatened with being laid off.

It is not difficult to see the relationship between the displaced executive in a local industry whose vocational career has been cut short because an anticipated contract has fallen through, the technician whose special skills have been replaced by new technology or the doctorate whose field is obsolete even before he is employable--and the community college instructor who is being laid off because students are no longer enrolling in the courses he is qualified to teach and the college cannot afford to retain him on the payroll.

While each community college can and will help hundreds of displaced students, they must also seek ways to assist the experienced staff whose jobs are now threatened. A faculty retraining program may be the answer.

"Faculty Retraining in Four States"

By far the most exciting piece of literature uncovered in preparation for this study arrived in the form of an article by Charles Neff, titled "Faculty Retraining in Four States," in the October 1978 issue of the AAHE Bulletin.[4] Until it appeared, however, one could almost have believed that no one outside of Palomar College had thought of the idea. Dr. Neff's introduction to the subject is worth repeating in full:

> Traditionally, individuals have decided when and if to shift scholarly fields as their academic interests have changed. Some persons have made very substantial mid-career changes--from physics to biology, from English to philosophy, from sociology to political science. But until recently there has been little expectation that the reasons for change should be other than individually motivated.
>
> After a period of almost uncontrolled growth, many educational institutions find themselves with disciplines and departments that are over-staffed with faculty and under-enrolled with students. One possible solution is to dismiss faculty and hire new individuals in fields that show high demand.

> Another possibility is to retrain faculty from one field to another (or, as is often the case, from one sub-field to another), preserving accumulated knowledge while adding new capability.

The four retraining programs described by Neff are, in his words, ". . . the more advanced examples of formal commitment to retraining." They are conducted by four university systems: the State University System of Florida; the State University of New York (SUNY); the State University College of Pennsylvania; and, the University of Wisconsin System.

The Florida program was one of the first to be established and was operated during the academic years 1974-75, 1975-76 and 1976-77. For reasons not made totally clear by that institution, the program was discontinued. Indications are, however, that it may be re-established, this time on a broader, less costly basis than before. Dr. Neff suggests that, as originally established, the Florida program was tied quite directly to the retraining of minority faculty with grants in the amount of $10,000 going to Blacks and smaller grants provided other faculty. Budget-tightening was undoubtedly one cause for the program's discontinuance; but the discriminatory nature of the grants may well have been the underlying cause.[5]

The SUNY program was initiated in the year 1977-1978. Neff reports that a meeting of the Advisory Committee on December 12 of this year was held to make final selection of seven candidates for the 1978-1979 program from among fifteen applicants. A substantial number of the applicants were from the community colleges of the system.[6] The SUNY program provides salary plus tuition waivers within SUNY plus an average of $2,700 for travel, books and other expenses.[7]

The Pennsylvania program originally involved the 17 State-owned campuses when it began in Spring 1976. It is presently operating on a considerably reduced scale with funding provided on an average of $2,000 for tuition, books and travel plus salary. Candidates are selected on the basis of proposals submitted by faculty to a grants competition which are reviewed by several committees before final selection by the trustees of the Educational Services Trust Fund and are granted release time or sabbatical or administrative leaves.[8]

The Wisconsin program can be divided into three distinct phases. In the first, from 1973-1976 the system supported the program. From 1976-1978

the institutions supported limited programs from their own budgets. This year a broader program, funded jointly by the legislature, the campuses and the system has recently begun. Selection procedures for the third phase began with recommendations at the institutional level and final acceptance of proposals by the system administration. The Wisconsin program provides salary plus tuition.[9]

Most of the programs in the Florida program have involved out-of-state institutions for an average of one year's study. More than half the SUNY programs have taken place within the university system and have extended from three to fifteen months. Approximately two-thirds of the Pennsylvania programs have taken place within the state over an average of one semester. All the Wisconsin training programs have occurred in either Wisconsin or Minnesota institutions over an average of two semesters.[10]

Proposed faculty retraining program at Palomar College

The only thing which can be said about the proposed faculty retraining, or "lateral transfer", program at Palomar College is that it is eagerly anticipated. Only now, with the completion of this "progress report", does it appear that there will be sufficient information upon which to base a decision to proceed or not to proceed with the idea. The current drafts of two policies, one to provide governing board authorization for a program of faculty retraining for lateral transfer and the other to provide authorization for the granting of release time, leaves of absence and reimbursement, are presented below.

STUDY

LATERAL TRANSFER POLICY
FOR CERTIFICATED POSITIONS

The instructional staff of Palomar College endorses the principal of lateral transfer. It is the intent of this policy to maintain the high quality of instruction for which this College is known while providing the flexibility required in the faculty to meet the changing needs and demands of students. It is further the intent of this policy to enable experienced staff of the College to continue in their service of these needs and demands during periods of declining enrollment and/or financial constraints.

1. Definition of lateral transfer

Lateral transfer under this policy is defined as the procedure whereby (1) a certificated employee transfers from the department of instructional area for which he or she was originally credentialed to another department or instructional area for which another credential is required, or (2) a classified employee transfers from the position for which he or she was originally employed to a position for which a credential is required for the purpose of teaching one or more classes. A lateral transfer may be experimental or temporary or permanent in nature. It may be effected to fill a permanent vacancy, a leave of absence or sabbatical leave or to provide for a staff increase in an expanding program.

Requests for a lateral transfer may be initiated in any of the followways:

a. A regular (permanent) certificated employee whose position may be or is to be reduced by reason of declining student interest or budgetary constraints (Ed. Code Sec. 87743) shall be granted the option of becoming fully qualified for lateral transfer to an available position.

b. A contract (probationary) certificated employee whose position is to be reduced by reason of declining student interest or budgetary constraints may be granted the option of becoming fully qualified for lateral transfer to an available position.

c. One department or instructional area of the College may request the lateral transfer of a certificated employee from another department or instructional area for the purpose of adding that individual's particular expertise to its instructional program.

d. A certificated employee in one department or instructional area of the College may request a lateral transfer to fill a vacancy in another department or instructional area to satisfy a new or growing interest in that subject area.

e. A classified employee may request and may be granted the option of becoming fully qualified for lateral transfer to an available position for which certification is required.

For the purposes of this policy, the terms "candidate(s) for lateral transfer" and "candidate(s)" refer to instructors,counselors, librarians, other certificated support personnel and classified personnel presently employed by the College.

2. Qualifications for lateral transfer

All candidates for lateral transfer must have a major or a minor in and possess or be eligible for a credential to teach in the subject area to

which they wish to transfer. All candidates must, in addition, fulfill the requirements set forth by the College for the position to be filled. Only the best qualified of all candidates for transfer to any position declared open may be selected. If no candidate is deemed to be fully qualified, the position may be declared open to qualified applicants from outside the College. The rules of affirmative action shall apply.

3. Evaluation and Retention

Evaluation of instruction pursuant to a lateral transfer shall be conducted at least annually for the first two years in the manner prescribed by the College for all first- and second-year instructors. If one or both of the evaluations are unsatisfactory, one of the following courses of action may be taken:

a. The instructor may be dismissed from the new position in accordance with Ed. Code Sec. 87732 et seq.; and,

b. If the lateral transfer was effected under the conditions of a. or b. of paragraph 1. above, the instructor shall continue to have preferred rights according to seniority to reappointment to the first available position for which he or she was originally qualified in accordance with the provisions of Ed. Code Sec. 87744 or 87745, whichever was then appropriate, for the remainder of the 39 months or 24 months, respectively, or for as long thereafter as determined reasonable by the College.

c. If the lateral transfer was effected under the conditions of c., d. or e. of paragraph 1. above, the College may grant preferred rights according to seniority to reappointment to the first available position for which the instructor was originally qualified for up to 39 months for permanent staff and 24 months for probationary staff, beginning with the effective date of the transfer, or for as long thereafter as determined reasonable by the College.

By law, approval for instruction in the minor field must be renewed annually by the Governing Board (Ed. Code Sec. 87277).

All action taken under a., b. or c. of this paragraph shall be forwarded to the instructor in writing no later than March 15 prior to the date of termination.

4. Limitations of the policy

Lateral transfers shall necessarily be limited to subject areas in which existing hourly personnel could be replaced, retirements or resignations are anticipated, sabbatical leaves or leaves of absence are planned or program expansion is anticipated. Lateral transfers may be assigned by the Superintendent/President in consultation with the Dean of Instruction, the appropriate Division Dean(s) and the department(s) or program(s) involved.

Nothing in this policy shall be construed to require that the college make positions available for lateral transfer.

STUDY

STAFF DEVELOPMENT FOR LATERAL TRANSFER

The College is committed to the support of staff development for lateral transfer where such transfer directly aids the College in maintaining its high quality instructional programs.

1. Definition of staff development for lateral transfer

   Under this policy staff development for lateral transfer is defined as an approved program of professional growth leading to qualification of a candidate for lateral transfer as defined in paragraph 1. of the Lateral Transfer Policy for Certificated Positions. A program of staff development for lateral transfer may include one or a combination of the following activities.

   a. Upper division or graduate level coursework leading to the acquisition of an appropriate subject area credential.

   b. An approved internship completing the requirements for a subject area credential and/or meeting the specific requirements set forth by the College for any anticipated position(s) in the instructional area to which transfer is desired.

   c. An approved program of reading, independent study, research or work experience designed to upgrade to a competitive level the candidate's qualifications for a particular position to which transfer is desired.

2. Compensation for staff development for lateral transfer

   Candidates for lateral transfer, whose plans for upgrading their qualifications have been approved may apply for compensation. The candidate's Committee (see 3. below), in consultation with the candidate, shall approve the type and amount of compensation to be awarded. Compensation may be awarded in any one of the following ways.

   a. A full or partial leave of absence with or without pay for up to but not exceeding two consecutive semesters.

   b. Release time in the amount of up to 60% of the candidate's annual load for a period of not more than two consecutive semesters.

c. Payment of tuition and fees for approved upper division or graduate level coursework at an accredited four-year institution in an amount not to exceed $500 during any two consecutive semesters.

d. A Faculty Grant for an approved research project in an amount not to exceed $500 during any two consecutive semesters.

3. Qualifying for compensation for staff development

Candidates for lateral transfer shall present their qualifications for any position to which transfer is desired to the Dean of Instruction. Candidates who do not already possess an appropriate valid credential and/or other minimum or desirable qualification for the position as set forth by the College shall have their transcripts and work experience evaluated for the purpose of preparing a plan of staff development for obtaining the credential and/or other specific qualifications.

The Dean of Instruction shall, for every candidate for lateral transfer, call a Committee composed of the appropriate Division Dean and members of the department or instructional area to which transfer is desired for the purpose of reviewing the candidate's qualifications and/or plan for upgrading those qualifications and either (1) approving the plan or (2) recommending another plan.

Upon receiving approval of the plan for staff development, the candidate for lateral transfer may make application for compensation.

4. Limitations of the policy

Limitations of this policy, in addition to those stipulated in paragraph 2. above, are as follows:

a. Compensation under c. or d. in paragraph 2. above shall be made only after submission by the candidate to the Dean of Instruction of proof of satisfactory completion of the approved coursework or project and all receipts for tuition and fees.

b. The candidate shall not be compensated or remunerated under c. or d. of paragraph 2. above for any coursework or project for which compensation or remuneration is received from any other organization or agency.

c. The candidate shall not be remunerated or compensated for any coursework or project completed prior to application for compensation under this policy or for any coursework or project in progress at the time of application, unless it is clear that delay in Committee approval of the plan for staff development was the direct cause of this violation of the policy.

Reasonable exceptions to any of the limitations of this policy may be granted with the approval of the Governing Board.

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3. Gilbert, Marion L. "A Study of Community College Teacher-Training Programs in Selected Universities," Los Angeles: ERIC Clearinghouse for Junior Colleges, 1971, p. 49.

4. Neff, Charles B., op. cit., p. 1.

5. Neff, Charles B. Telephone interview, December 13, 1978.

6. Ibid.

7. Neff, Charles B. "Faculty Retraining, op. cit., p. 5.

8. Ibid., pp. 5-6.

9. Ibid., pp. 5-6.

10. Ibid., p. 6.

V. FACULTY RETRAINING: THE SITUATION IN CALIFORNIA

In public institutions of education, policies and procedures are almost without exception, proceeded by enabling legislation. In California, at least until recently, the first question asked when a new idea is proposed has been, "Does the Code allow it?" Now there is some confusion about the need to ask that question.

Faculty retraining, supported by public funds, most certainly appears to be a new idea in California. The Education Code appears to make no specific provisions for it, not for certificated staff. In this early, and admittedly incomplete study of the question, one piece of legislation outside of California has been located which, it appears, could allow such a program to be developed.

Enabling legislation

The Personnel Policies of the Connecticut State Board of Trustees for Regional Community Colleges contains one section, Section 3-60.1, Reimbursement of Tuition Fees and Expenses at Other Colleges, which authorizes the budgeting of funds by each of the colleges and grants professional staff members reimbursement "within budgetary limitations," for up to 12 semester hours of credit in any one year for coursework taken "to maintain and expand their professional development . . .." It is noted that the policy "is particularly vital to meet the needs of an ever-changing student body and a commitment to the community."[1] The policy appears to be flexible.

California Education Code does not, as noted above, provide for community college faculty in the matter of reimbursement for coursework as does the Connecticut policy. California does, however, make extensive provision for retraining and study involving community college classified staff. Section 88220 explains that it is recognized that "technological and other changes are occurring which may displace otherwise desirable classified employees in the public school systems of the state. The Legislature intends, therefore, that the enactment of this article will encourage classified employees to pre-

pare themselves for the changes that are occurring and will also encourage governing boards to utilize the article to further [the] study and retraining by classified personnel."[2]

Section 88221, et. seq.,[3] gives governing boards the right to grant qualified classified employees leaves of absence for the purpose of retraining, compensation during such leaves and "reimbursement of the costs, including tuition fees," upon satisfactory completion of approved training. Section 88227 specifically defines programs eligible for reimbursement as including, but not limited to, courses of study at approved academic institutions, seminars and training institutes.[4]

Except as noted in sections described below, provisions for payment to certificated personnel for similar professional activity at any level in the public school systems of California is non-existent.

Within the general provisions applying to all postsecondary school employees, Section 87015 grants governing boards the right to make awards to employees who (a) propose procedures or ideas which, if adopted, "result in eliminating or reducing district expenditures or improving operations; (b) [p]erform special acts or special services in the public interest; or (c) . . . make exceptional contributions to the efficiency, economy or other improvement in operations of the district." Awards granted under this section "shall not exceed two hundred dollars ($200), unless a larger award is expressly approved by the governing board."[5] An identical provision is made for elementary and secondary school employees in Section 44015.[6]

Section 44570, et. seq., under the heading, "In-Service Training--Personnel, Secondary Education,"[7] is intended to "encourage California's institutions of higher education* . . . to enter into cooperative arrangements with local school districts for the provision of training programs to improve high school teachers' instructional skills." The term "staff development," as applied throughout the article, refers specifically to these training programs.

If such a cooperative training program is organized, Ed. Code provides that the institutions of higher education will provide the courses and the instructional staff, the school district provides "the necessary facilities,

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*Does not appear to apply to community colleges.

equipment and instructional materials," the participating trainees are to be remunerated "on a basis consistent with usual procedures of the school district" and the school district pays all costs of the project out of district funds. Equivalent provisions are made for elementary teachers in Section 44580, et. seq.[8] No provisions of this nature are made for community college faculty.

Apparently, the legislature has granted all classified employees and K-12 teachers certain rights to reimbursement for educational expenses it has not granted to community college certificated employees. There is evidence, however, that some districts do have policies for payment of tuition fees for coursework and/or for making awards, which policies, on close examination, do not adhere to the requirements of Section 87015, Awards. These policies are found in policy and procedures manuals under "Professional Growth."

Some professional growth policies

The January 16, 1978 through June 30, 1980 Agreement between the Los Angeles Community College District and the American Federation of Teachers provides for tuition reimbursement not to exceed $500 for not more than 50% of a faculty member's tuition costs in any one year. The policy specifies that "[c]ourses taken must be in the faculty member's discipline. An exception may occur in a situation of the retraining of a faculty member to perform in a closely related discipline." A fund not to exceed $100,000 "shall be established" for this purpose.[9]

At Palomar College, the opening statement of the governing board's Professional Growth Policy stipulates, "[p]rofessional growth is expected as a part of the normal way of life of every faculty member throughout his/her teaching career." The concluding statement reads, "Each member is expected to maintain a self-guided program of professional improvement which will include six units in each four-year period."[10]

While the policy noted above does not provide for reimbursement of any kind for professional growth activities, Palomar College's Faculty Grant Policy[11] authorizes grants in the amount of $500 for completion of approved "projects of significance to the instructional program of the College." Typical projects have included an innovative course of study, major revisions to an existing course of study to include "instructor-prepared programmed

materials," development of a remedial course for student use in the Learning Center and development of a program of televised instruction.

Although by no means the only other colleges in California to encourage instructional innovation through a grants program, both Orange Coast College and Mt. San Jacinto in southern California are noted for very extensive and substantial programs.

Some observations and questions

In no way is professional growth synonymous with a faculty retraining program, but they both involve similar activities. Professional growth is usually viewed as the responsibility of the individual. Faculty training may be viewed as the responsibility of the institution. While most professional growth policies stress activities in the faculty member's discipline, many community college faculty have made mid-career changes by acquiring new certification through professional growth.

The Los Angeles Community College District Professional Growth Policy, as presently worded, would preclude its use for making major career changes. Minor modifications, however, would enable that policy to be used to implement a faculty retraining program.

Several questions remain to be answered. Is the Code permissive in the area of reimbursement for academic coursework? If not, where does the Los Angeles Community College District get its authority to pay tuition fees? Has Section 87015, Awards, been interpreted to include professional growth in the category of "special service to the district?" Or has Section 44570, inservice-training for secondary education, been given a far broader interpretation than it appears to read and stretched to include teachers of grades 13 and 14?

Since the Legislature has granted classified staff reimbursement for tuition under Section 88220 for reasons equally applicable to certificated personnel, has this been taken to mean that such use of district funds, even though not specifically granted in Code, is permissible for certificated staff as well?

Some opinions related to the Code's permissive nature, and to the larger question of faculty retraining in general, are reviewed in Chapter VI.

REFERENCES

1. Connecticut State Board of Trustees, op. cit., p. 43.

2. California Education Code, Title 3, Sec. 88220.

3. Ibid., Sec. 88221.

4. Ibid., Sec. 88227.

5. Ibid., Sec. 87015.

6. California Education Code, Title 2, Elementary and Secondary Education, Revised 1976, Sec. 44015.

7. Ibid., Sec. 44570.

8. Ibid., Sec. 44580.

9. Los Angeles Community College District and American Federation of Teachers. Agreement, Jan. 16, 1978-June 30, 1980, p. 25.

10. Board of Trustee, Palomar Community College District. Policy Manual, Revised Sept. 1974, p. 68.

11. Ibid., pp. 68-69.

VI. FACULTY RETRAINING: PROS, CONS AND OTHER OPINIONS

Charles A. Neff

Dr. Neff, reporting what he refers to as "working conclusions" about the four university systems' faculty retraining programs, notes that the programs still need to be tested by time and further evaluation. His conclusions are, however, basically positive and encouraging. Here, in summary, is a composite of his eight conclusions.[1]

(1) Faculty training does work. It is one of several strategies for institutional and individual change, which collectively may provide higher education in America with a more viable future.

(2) No new program begins without misunderstanding as to purpose and some overt resistance, some degree of suspicion.

(3) Faculty retraining programs will not begin without some commitment to retraining in principle or without resource investment.

(4) Financial exigency is a powerful motivator. Without it, all but a few are likely to accept retraining and its purposes as a legitimate form of professional development. Financial exigency cannot be the principal justification, however. Not only can faculty retraining be quantitatively crucial, but program improvement can also accrue. Most importantly, individuals can get a new lease on life.

(5) It is important in planning retraining programs to identify fields rather than individuals. Retraining will not work as a draconian measure that will force a person to do something he or she would not be willing to do otherwise.

(6) Retraining is not a means for doing away with or improving bad teachers. Those who are willing to consider retraining are those who are already quite secure.

(7) Retraining works best in a multi-institutional framework. It benefits from being a group activity, from institutions collectively making their educational resources available and from tuition waivers.

(8) Retraining of tenured faculty could be viewed as conflicting with affirmative action goals. If, however, it allows academic programs to become more viable, more attractive to students and educationally more effective, positions may actually be saved and may then be filled, in part, through affirmative action programs.

John J. Wagner

"If I were a member of a Board, I wouldn't touch this with a ten-foot pole!"[2] So stated John J. Wagner, a practicing school attorney representing a majority of the school districts in the Los Angeles area and adjunct professor at Pepperdine University. Dr. Wagner had been requested to review the two policies prepared for consideration by Palomar College and to comment candidly. His opening statement was a marked contrast from the favorable comments received from community college administrators and faculty. His point of view was that of one whose job it is to keep school districts out of trouble and out of court.

Most governing boards, Wagner suggested, would turn down such a proposal because it offers everything to faculty and nothing to the board. In addition, a district could find itself in trouble attempting to implement such a proposal under the restrictions of Ed. Code Section 87743, et. seq. The Code specifies order of layoff and order of rehire as seniority, credentialling and competency. The difficulty in defining competency would create almost unsolvable problems in attempting to determine who among those being laid off should be offered an opportunity for retraining. Granting a leave of absence in lieu of being laid off to one employee and not another could be a very sticky matter.

Some disadvantages of the proposal to the employees for whom it is designed were outlined by Dr. Wagner. In the case of certificated employees, presuming a person is by virtue of seniority and present position in the group to be terminated and has accepted a leave of absence for purposes of retraining, if a position opens up for which that person is qualified, he or she is now unable to accept it. The person next in seniority in the layoff pool who is qualified for the position will be offered the job. It is important to remember that the person who has accepted retraining in lieu of termination <u>has not been guaranteed a job</u>. When under the provisions of the Code, an employee

has 39 or 24 months of priority for any job for which he or she is qualified, it is risky to accept a leave of absence.

Inclusion of classified personnel in a retraining program, as was proposed in Draft 3 of the proposal, could be a distinct disservice to classified staff. It could be a trap. It could be used to get rid of someone with tenure in a classified position, who after retraining and reassignment in a certificated position could then be fired as a probationary employee.

It has been said many times during the course of this study by many persons that the California Education Code is now a permissive code. Dr. Wagner seemed to run hot and cold on the subject. If it is permissive, he suggested, and if payment of district funds to a terminated employee were deemed to be legal, one way around the problem of deciding who should be retrained and who should not would be to proceed with termination, then select from those in the pool of terminated employees those best qualified for the program. Then there would be no legal snarl.

If payment were to be considered a gift of public funds, however, possibly the legislature would be willing to provide enabling legislation in return for something the faculty might be willing to give up. Dr. Wagner posed the thought that that something might be tenure!

A program such as this would have a better chance of working, Wagner stated, in a collective bargaining situation than in a college which does not negotiate a contract. It could be made a negotiable item, even though legally it does not qualify as such. Many things which, in the strict sense, do not qualify are made a part of the contract. Possibly the contract could include an agreement that the district pay tuition fees for terminated employees under the conditions provided in the proposal.

Two Community Colleges

Other reactions to the proposal have been considerably more enthusiastic and optimistic. It must be noted, however, that none other was based on such thorough review of the matter or such understanding of California school law. As explained in the Introduction above, the genesis of the proposal came from a Palomar College faculty committee and received immediate support from the administration and the governing board. About the only negative

reaction has been some grumbles about when is it going to be finished!

Administrative personnel of the Los Angeles Community College District with whom the proposal has been shared have been equally as interested as are those at Palomar College. They point to their Professional Growth Policy in the District-AFT Agreement as a possible starting place. Their major concern there is the question whether they can fund that policy next year. When queried as to the authority on which that policy is based, the answer was, typically, "It is a permissive Code." Vice-Chancellor McCuen expressed the only negative question. "It's a good idea and I like it; but the Board will want to know, will it save money?"[3]

McCuen's concern was not shared by many others. Dan Means, Director of Staff Relations and Co-Negotiator for the district, commented that no dollar value should or could be placed on the benefits of such a program. It should be, he stated, what is good for the faculty and the students.[4]

These, then, have been expressed opinions and observations, all extremely valuable, from a person presently involved in faculty retraining programs, persons in a large, multi-campus district operating under collective bargaining who have voiced interest in the proposal and a person eminently qualified to look at the legal aspects of such a policy. The proposed policy itself, speaks for the opinions of Palomar College personnel.

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2. Wagner, John J. Interview, November 28, 1978.

3. Administrative Personnel, Los Angeles Community College District. Interviews, October-November 1978.

4. Ibid.

VII. CONCLUSIONS AND RECOMMENDATIONS

The questions asked in Chapter V were not designed to ruffle the waters or to cast aspersions upon the validity of the Los Angeles Community College District's professional growth policy. They were presented simply in an effort to point out what appears to be a paradox in the Education Code in the matter of reimbursement of expenses for retraining programs. The question, whether or not the Code is permissive, is not easily answered and needs clarification.

The Los Angeles Community College District's professional growth policy is an excellent policy. It represents progress; it is humane; it is educationally sound. It echoes the same underlying principles addressed by Charles Neff when he speaks of the best purposes which should motivate a teacher retraining program. As a matter of fact, the LACC District policy is just one step away from being a teacher retraining policy of the type proposed in this paper.

It is apparent that the consequences of the several crises now facing higher education, more specifically, facing the community colleges of California, will have far-reaching and long-range effects on the colleges and students in the next decade. An alternative to large-scale layoffs and program disruption must be found. That alternative just possibly is faculty retraining for lateral transfer. Certainly, if it is a viable solution for classified staff, it is equally viable for certificated staff.

In reviewing the retraining programs of the four university systems presented by Charles Neff, it must be kept clearly in mind that there are a number of very real differences between the university and the community college. Governance is different. Funding is different. And, the role of each is different. Dr. Neff, in our recent telephone interview, commented on yet another very important and interesting difference. Community college

faculty seem to work better in a retraining program than do their university counterparts. They are more tractable, less specialized in their fields of interest and more broadly trained to begin with. Neff sees a great future for higher education through such programs as faculty retraining and sees such programs operating successfully in community colleges.

John Wagner, on the other hand, warns of certain dangers in the attempt to implement faculty retraining program under California law. He advises removing the classified staff from the proposal and eliminating as many procedural pitfalls as possible which do a disservice to those for whom the proposal is designed. Repeatedly, Wagner has advised his doctoral students that procedural errors lead to costly litigation. For these reasons, the proposed policies for faculty retraining for lateral transfer need to be reviewed carefully and further refined.

I am convinced that faculty retraining for lateral transfer is a valid alternative to massive layoffs of trained, productive certificated personnel. I agree with Dr. Neff's observation that financial exigency is a strong motivator for the initiation of such programs. I agree, also, that there are even better reasons for implementing faculty retraining programs than financial exigency and that all of higher education stands to benefit from the results.

The interest and enthusiasm displayed by the two community college districts which have been involved in this study to date has been very encouraging. It is my intention to pursue the project further, to obtain more data on similar programs throughout the nation, if indeed there are others to study, to enlist opinions regarding the feasibility of such programs from other California community college personnel, to interest the Chancellor of the California Community Colleges and the Board of Governors, and to present the proposal and its legal problems to members of the State Legislature. In the meanwhile, I hope that both the Palomar Community College District and the Los Angeles Community College District will assist in carrying the project to a fruitful conclusion.

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